

Rule 14-804. Certification for military legal assistance lawyers.

(a) Certification for military lawyers to practice in Utah. A lawyer admitted to the practice of law in a state or territory of the United States or of the District of Columbia, who is serving in or employed by the United States Uniformed Services and authorized to provide legal assistance by federal statute or military regulation (“military lawyer”), may obtain a Registered Military Legal Assistance Certificate to represent clients before courts and agencies in Utah.

(b) Application requirements. The military lawyer must be of good moral character and shall apply to the Bar by:

(b)(1) filing an application in the form and manner prescribed by the Bar;

(b)(2) presenting proof that the military lawyer is employed, stationed or assigned at a military installation in Utah;

(b)(3) presenting satisfactory proof of admission to the practice of law before the highest court of a state or territory of the United States or the District of Columbia and submitted certification that the military lawyer is in good standing in all jurisdictions where currently admitted and is not currently subject to attorney discipline or the subject of a pending disciplinary matter in any jurisdiction;

(b)(4) certifying the applicant has not been previously denied admission to the Bar;

(b)(5) submitting an affidavit from the military lawyer’s commanding officer, staff judge advocate or chief legal officer of the military installation in Utah attesting that the military lawyer will serve as a lawyer exclusively to provide legal services as authorized by federal statute or military regulation, and that the military lawyer’s commanding officer, staff judge advocate or chief legal officer will notify the Bar within ten days of the termination of the lawyer’s military employment or service in Utah; and

(b)(6) furnishing whatever additional information or proof that may be required in the course of processing the application.

(c) Certification. Upon determination by the Bar that a military lawyer has satisfied the requirements of this rule, the military lawyer will be issued a Registered Military Legal Assistance Certificate.

(d) Prohibition on holding forth. Military lawyers admitted to practice pursuant to this Rule are not, and shall not represent themselves to be, members of the Bar nor represent that they are licensed to generally practice law in Utah.

(e) Scope of authorized representation. Military lawyers certified pursuant to this rule are authorized to appear before a court or agency in Utah as counsel for clients eligible to receive military legal assistance by federal statute or military regulation in any matter

permitted by that federal statute or military regulation and authorized by the military lawyer's commanding officer, staff judge advocate or chief legal officer, or upon the consent of the applicable court or agency.

(f) Jurisdiction and authority. The practice of a lawyer admitted under this rule shall be subject to the Utah Rules of Professional Conduct and Article 5, Lawyer Discipline and Disability, and to all other applicable laws and rules governing lawyers admitted to the Bar. Jurisdiction shall continue whether or not the military lawyer retains the privilege to practice in Utah and irrespective of the residence or domicile of the military lawyer.

(g) Mandatory disclosures. A military lawyer certified under this rule must report to the Bar within 10 days;

(g)(1) any event listed in subsection (h) of this rule;

(g)(2) any change in bar membership status in any jurisdiction where the attorney has been admitted to the practice of law;

(g)(3) the imposition of any permanent or temporary professional disciplinary sanction by any jurisdiction;

(g)(4) any change in status that may affect the lawyer's privilege to practice under this rule.

(h) Termination of certification. The military lawyer's privilege to practice under this rule may be terminated upon completion of a disciplinary proceeding in Utah or shall terminate upon any of the following events:

(h)(1) the lawyer separates or retires from the United States Uniformed Services;

(h)(2) the lawyer is no longer employed, stationed, and assigned at a military installation in Utah;

(h)(3) the lawyer fails to remain in good standing in any jurisdiction where the lawyer has been admitted to practice law; or

(h)(4) the Supreme Court orders the termination of the certificate at any time, with or without cause.

Rule 14-805. Temporary admission for spouse of active military stationed in Utah.

(a) Requirements for provisional admission of spouses of active military with orders in Utah. Absent admission under Rules 14-701 et seq., the spouse of an active member of the military (“Military Spouse Attorney”) with orders to reside in Utah may be provisionally admitted to practice law without taking the Bar Examination. The defined terms set forth in Rule 14-701 are incorporated in this rule. The burden of proof is on the applicant for provisional military spouse admission to establish by clear and convincing evidence that she or he:

(a)(1) has paid the prescribed fee and filed the required Complete Military Spouse Application;

(a)(2) has graduated with a First Professional Degree in law from an Approved Law School;

(a)(3) has been admitted to the practice of law before the highest court of a U.S. state, territory, or the District of Columbia;

(a)(4) does not qualify for admission by motion under Rule 14-705 or admission by the transfer of a UBE score under Rule 14-712;

(a)(5) has achieved a score on a Bar examination in another U.S. state, territory, or the District of Columbia equivalent to Utah’s passing score as defined in Rule 14-711(d) and has not failed the Utah Bar Examination;

(a)(6) is of good moral character, satisfies the requirements of Rule 14-708, and has not previously been denied admission by the Utah State Bar;

(a)(7) has successfully passed the MPRE in accordance with Rule 14-713;

(a)(8) is an active member in good standing in at least one state or territory of the U.S. or the District of Columbia and is a member in good standing in all jurisdictions where she or he has been admitted;

(a)(9) has a proven record of ethical, civil and professional behavior and has never been disbarred or resigned with discipline pending, or their equivalent, in any jurisdiction and is not currently subject to lawyer discipline or the subject of a pending disciplinary matter;

(a)(10) is the spouse of an active duty service member of the United States Uniformed Services as defined by the Department of Defense and the service member is on military orders stationed in Utah;

(a)(11) is physically residing in Utah;

(a)(12) has identified an active member of the Bar in good standing who has agreed to actively supervise the Military Spouse Attorney and assume full responsibility for all matters to be handled by the applicant as evidenced by a verification signed by both the Military Spouse Attorney and the supervising attorney;

(a)(13) agrees to file any pleadings or papers with Courts within Utah only with the active participation of the supervising attorney and to include the name of the supervising attorney on all pleadings and papers. Unless excused by the presiding judge, the attendance of the supervising attorney is required at all court appearances until the Supreme Court approves the Military Spouse Attorney's admission to the Bar; and

(a)(14) complies with the provisions of Rule 14-716 concerning licensing and enrollment fees.

(b) Timing and processing of application. An application under this rule may be filed at any time, but the applicant must be able to demonstrate that she or he satisfies the requirements of this rule as of the date the application is filed. Processing of the application typically takes a minimum of three months. However, the Bar will conduct a preliminary character and fitness review of the Military Spouse Application, upon satisfactory completion of which the Bar will issue a Practice Pending Admission Certificate to the applicant. The Practice Pending Admission Certificate authorizes the Military Spouse Attorney to begin practice in accordance with this rule while the application is pending.

(c) Jurisdiction and Authority. The practice of a lawyer admitted under this rule shall be subject to the Utah Rules of Professional Conduct and Article 5, Lawyer Discipline and Disability, and to all other applicable laws and rules governing lawyers admitted to the Bar. Jurisdiction shall continue whether or not the Military Spouse Attorney retains the privilege to practice in Utah and irrespective of the residence or domicile of the Military Spouse Attorney.

(d) Continuing legal education. Applicants admitted under this rule that have two or more years of legal practice shall complete and certify no later than six months following admission that she or he has attended at least 15 hours of continuing legal education on Utah practice and procedure and ethics requirements.

(d)(1) The Bar may by regulation specify the number of the required 15 hours that must be in particular areas of practice, procedure, and ethics. Included in this mandatory 15 hours is attendance at the Bar's OPC ethics school.

(d)(2) Those with less than two years of practice when admitted must complete the New Lawyer Training Program (NLTP) as outlined in Rules 14-404 and 14-808.

(d)(3) On an ongoing basis, attorneys admitted pursuant to this rule must comply with the continuing legal education requirements imposed on active status lawyers under Rule 14-404.

(e) Mandatory disclosure of limited licensure. An attorney admitted pursuant to this rule must provide to every client, prior to the commencement of representation, a notice disclosing the Military Spouse Attorney's association with a supervising attorney.

(f) Term of temporary license to practice in Utah. An attorney admitted pursuant to this rule has a temporary license for a maximum of three years from the date of admission.

(g) Annual licensing. An attorney admitted pursuant to this rule is subject to annual licensing and enrollment fees, and during the annual licensing period must provide to the Bar proof of continuing compliance with (a)(8) through (a)(12).

(h) Mandatory status reporting. An attorney admitted pursuant to this rule and the supervising attorney are each responsible for notifying the Bar in writing within 20 days of any change that may affect the Military Spouse Attorney's privilege to practice law under this rule.

(i) Termination of temporary license to practice in Utah. The temporary license terminates and the attorney must cease all activities under this rule :

(i)(1) ninety days after the military service member receives orders to reside in a place other than Utah;

(i)(2) ninety days after the military service member leaves active duty in the military, including both voluntary and involuntary separation and retirement;

(i)(3) ninety days after the military service member and the Military Spouse Attorney legally separate or divorce;

(i)(4) thirty days after failure to satisfy the continuing legal education requirements listed in subsection (d);

(i)(5) thirty days after failure to pay annual licensing fees in accordance with Rule 14-107;

(i)(6) thirty days after failure to provide annual proof of continuing compliance as required by subsection (g);

(i)(7) immediately upon failure to maintain an active license in at least one U.S. state, territory, or the District of Columbia;

(i)(8) immediately upon any termination of sponsorship by the supervising attorney identified pursuant to (a)(12), or the failure of the supervising attorney to be an active member of the Bar in good standing, or the failure to satisfy the requirements of subsections (a)(12) and (a)(13);

(i)(9) immediately upon receiving a failing score on the Utah Bar Examination;

(i)(10) immediately upon receipt of notice by the Utah Supreme Court, with or without cause; or

(i)(11) as ordered by any disciplinary proceeding in Utah or upon disbarment or suspension of any other license of the Military Spouse Attorney from another jurisdiction.

(j) Required action after termination. Upon termination of authority to practice in Utah, the Military Spouse Attorney must:

(j)(1) transfer all pending matters to the supervising attorney;

(j)(2) provide written notice to all clients in pending matters;

(j)(3) notify any courts and opposing counsel in pending litigation; and

(j)(4) decline to represent any new client, begin work in any new matter, or enter an appearance on any new case.

(k) Failure to satisfy the notice and termination of practice requirements set forth in subsections (e), (h) and (i) may subject the Military Spouse Attorney to discipline, including the termination of the license granted under this rule.

(l) Reinstatement after temporary termination of license. A Military Spouse Attorney whose temporary license was terminated pursuant to subsection (i) may be entitled to have his or her license reinstated upon written request if within six months from the termination, the Military Spouse Attorney is able to demonstrate that he or she complied with all the requirements of this rule upon termination of the license and the terminating event has been cured.

(m) Full admission to the Utah State Bar. To become a permanent Active member of the Bar, a Military Spouse Attorney must comply with the provisions of Article 7.